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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION SEP 15 2003
WASHINGTON, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. 03-
FM Broadcast Stations)	RM -
(Easthampton and Pittsfield, Massachusetts,)	
Malta, New York))	

To: Chief, Office of Broadcast Licensing Policy
Audio Division
Media Bureau

AMENDMENT TO PETITION FOR RULE MAKING

**GREAT NORTHERN RADIO, LLC
VOX NEW YORK, LLC**

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SUMMARY

This Amendment to Petition for Rule Making (“Amended Petition”), filed on behalf of Great Northern Radio, LLC and Vox New York, LLC (collectively, “Joint Petitioners”), requests changes to the FM Table of Allotments in 47 C.F.R. § 73.202(b) to enable the introduction of a first local service into Easthampton, Massachusetts and a channel upgrade of Malta, New York station WNYQ-FM. The changes would result in a preferential arrangement of allotments pursuant to Commission precedent and would increase service to a significant segment of the public. Specifically, the Amended Petition proposes the deletion of channel 288A at Pittsfield, Massachusetts, the reallocation of that channel to Easthampton, and a modification of the license for WBEC-FM to reflect the new community. The Joint Petitioners also propose the deletion of channel 289A, reserved for Malta, and the allotment of channel 289B1 at Malta for WNYQ-FM. The Amended Petition’s proposed allotments are preferred under the well-settled *FM Priorities* due to the priority of first local service into Easthampton over the retention of channel 288A in Pittsfield, which is a community already well-served by several AM and FM stations. The Amended Petition’s technical merit is clearly demonstrated by the provision of first local service to 15,994 persons and a net population gain of 523,866 persons receiving 60 dBu service due to the relocation of WBEC-FM, as well as the addition of 247,344 persons receiving service from an upgraded WNYQ-FM in Malta. Accordingly, the Joint Petitioners urge the Commission to issue a Notice of Proposed Rule Making to implement the changes requested in the Amended Petition.

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Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. 03-
FM Broadcast Stations)	RM -
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and Malta, New York))	

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AMENDMENT TO PETITION FOR RULE MAKING

1. On April 30, 2003, Great Northern Radio, LLC (“Great Northern”), licensee of WBEC-FM, Pittsfield, Massachusetts, by its counsel, filed with the Commission a Petition for Rule Making (the “Petition”) requesting an amendment of Section 73.202(b) of the Commission’s rules to enable significant station enhancements to WBEC-FM and improved service to the public.¹ The Petition proposed to offer first local service to Easthampton, Massachusetts by changing the community of license for WBEC-FM from Pittsfield to Easthampton.

2. Recent changes to the FM Table of Allotments now enable Vox New York, LLC (“Vox New York”), licensee of WNYQ-FM, Malta, New York, to improve that station's facilities. Accordingly, Great Northern and Vox New York (collectively, “Joint Petitioners”) seek to amend the above-referenced Petition and to obtain FCC approval to upgrade station

¹ The Petition’s proposal is incorporated in its entirety in this Amendment to the Petition for Rule Making (“Amended Petition”).

WNYQ-FM reserved for Malta² from channel 289A to channel 289B1, which will also enable significant station enhancements and improved service to the public. The Joint Petitioners hereby respectfully submit the Amended Petition and respectfully request the Commission issue a Notice of Proposed Rule Making implementing the proposals presented herein.

I. Technical Compliance

3. The Amended Petition proposes modifications to the FM Table of Allotments to delete the allotment of channel 288A at Pittsfield and to add an allotment for channel 288A at Easthampton, with a relocation of the transmitter site to new reference coordinates.³ These changes will require modification of the current WBEC-FM authorization to change the community of license from Pittsfield to Easthampton. In addition, the Amended Petition proposes to upgrade station WNYQ-FM at Malta by deleting channel 289A and adding channel 289B1. As described in the attached Engineering Statement,⁴ both proposals comply with the Commission's technical rules.

4. Petitioners seeking to change community of license pursuant to Section 1.420(i) must propose a channel that is mutually exclusive with the station's existing channel, and the new community must be preferred over the existing community pursuant to the Commission's FM allotment priorities.⁵ As described in the Engineering Statement, the proposed allotments

² On July 24, 2003, the Commission issued a *Report and Order* granting the Petition for Rule Making filed by Vox New York, LLC and Entertronics, Inc. requesting, among other things, a change in community for WNYQ-FM from Queensbury, New York to Malta, New York that became effective on September 8, 2003. *See In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Glen Falls, Indian Lake, Malta and Queensbury, NY), Report & Order*, MB Docket No. 03-105 (rel. July 24, 2003) (the "Malta Proceeding").

³ The reference coordinates are 42-18-52 N, 72-41-18 W. *See* Exhibit 1.

⁴ *See* Amended Engineering Statement of Robert M. Smith, Jr., attached as Exhibit 1 ("Engineering Statement").

⁵ *See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) ("FM Priorities"). The FM allotment priorities are (1) First fulltime aural service; (2) Second fulltime aural service;

comport with the Commission's minimum-distance separation requirements in Section 73.207(b) of the Commission's rules and eliminate a grandfathered short spacing. The proposed Easthampton allotment is mutually exclusive with the existing Pittsfield allotment, and the Easthampton allotment would provide the required coverage to the entire community of Easthampton.⁶ In addition, Pittsfield would continue to be served by several AM and FM stations; thus the relocation would not result in the removal of Pittsfield's sole local transmission service.⁷ Furthermore, the Engineering Statement indicates that the service areas associated with Pittsfield would retain five or more aural services, with the exception of two areas that would receive four aural services in addition to WBEC-FM. This total underserved area of 49.9 square kilometers is 1.7 percent of WBEC-FM's current coverage area, and the 482 persons receiving four aural services represents 0.4 percent of the total loss area population. The underserved area would be considered *de minimis* under FCC precedent.⁸ The proposed reallocation of channel 288A from Pittsfield to Easthampton would result in a net gain of service to 523,866 people.

5. Also, as described below, Easthampton is a preferred community to Pittsfield because it would result in first local service to Easthampton, a proposed net gain of 523,866 persons and a net gain of 929.6 square kilometers receiving 60 dBu service.

6. In addition, the Amended Petition proposes to upgrade Malta station WNYQ-FM pursuant to Section 73.202 of the Commission's rules by substituting channel 289A for channel

(3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3). *See Revision of FM Assignment Policies and Procedures*, 99 FCC 2d 88 (1988).

⁶ *See* Exhibit 1.

⁷ *Id.*

⁸ *See, e.g., Detroit Lakes and Barnesville, Minnesota and Enderlin, North Dakota*, 16 FCC Rcd 22881 (2001), *recon. granted on other grounds*, 17 FCC Rcd 25055 (2002) (awarding first local service preference to community where almost nine percent of loss-area population would receive four or fewer full-time services); *Earle, Pocohantas and Wilson, Arkansas and Como and New Albany, Mississippi*, 10 FCC Rcd 8270 (1995); *Huntsville and Willis, Texas*, 10 FCC Rcd 3329 (1995).

289B1, with a modification to WNYQ-FM's authorization, when granted. The proposed channel 289B1 allotment satisfies the Commission's minimum-distance separation requirements of Section 73.207(b) of the Commission's rules. As described in the Engineering Statement, the allotment site for WNYQ-FM at 42-58-17N, 72-40-52W is fully spaced to all domestic stations and to all Canadian stations. The Engineering Statement also demonstrates that the allotment to channel 289B1 is mutually exclusive with the current allotment at channel 289A.

7. As described in the Engineering Statement, the 70 dBu contour for the proposed channel 289B1 encompasses less than 50 percent of the Albany Urbanized Area. The current channel 289A 60 dBu contour covers an area of 2,521 square kilometers and 471,751 persons. The proposed operation of channel 289B1 in Malta would cover 4,429 square kilometers and 719,095 persons. Ultimately, substituting channel 289A for channel 289B1 for WNYQ-FM would result in an increase of 247,344 persons (a 52 percent increase) receiving 60 dBu service from the proposed Malta station.

II. Community of License – Easthampton, Massachusetts

8. The Joint Petitioners request a change in the authorized community of license for WBEC-FM from Pittsfield to Easthampton through deletion of the current allotment of channel 288A at Pittsfield and revision of the community of license accordingly. In accordance with the *FM Priorities*, the allocation represents an enhanced allotment priority over retention of the allotment in Pittsfield because the allocation would result in the introduction of a first local service to Easthampton. First local service constitutes a priority (3) under the *FM Priorities*, while retention of the existing allotment at Pittsfield represents at best a priority (4) in light of the other FM and AM stations licensed to that community.

9. Easthampton is located within the Springfield Urbanized Area, thus an analysis is provided of the factors delineated in the FCC's *Faye and Richard Tuck* decision and in the FCC's *Huntington*-related precedent.⁹ In this context, the most important consideration for a first local service is the proposed community's independence from the central city.¹⁰ The Commission considers eight factors in assessing this independence: 1) the extent to which the community's residents work in the larger metropolitan area, rather than in the specified community; 2) whether the community has its own newspaper or other media that cover the community's local needs and interests; 3) whether community leaders and residents perceive the specified community as an integral part of, or separate from, the larger community; 4) whether the specified community has a local government and elected officials; 5) whether the specified community has its own local telephone book or zip code; 6) whether the community has its own commercial establishments, health facilities and transportation systems; 7) the extent to which the specified community and the central city are part of the same advertising market; and 8) the extent to which the specified community relies upon the larger metropolitan area for various municipal services, such as police, fire protection, schools and libraries.¹¹ Proponents must demonstrate that a majority of these factors support a proposed community's independence.¹² The following demonstrates Easthampton's independence from the Springfield Urbanized Area and shows how the majority of the *Tuck* factors strongly support the community's entitlement to a first local service.

⁹ See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) (delineating eight-factor analysis for determining a proposed community's independence from a nearby urbanized area); *Huntington Broadcasting Co.* 192 F.2d 33 (D.C. Cir. 1951).

¹⁰ See, e.g., *Pitkin, Lake Charles, et al.*, 15 FCC Rcd 17311 (2000). The Commission also considers two additional criteria, which are discussed in more detail *infra*: the relative size and proximity of the suburban community to the Urbanized Area and the signal coverage to be provided to the Urbanized Area.

¹¹ See *Tuck* at 9.

A. Easthampton Offers its Residents Significant Employment Opportunities (Factor 1)

10. Easthampton's 2000 Census population is 15,994 persons.¹³ The most recent available Census data indicate that almost two-thirds of Easthampton's workers age 16 and over work in Easthampton.¹⁴ Easthampton's Chamber of Commerce promotes local business and development opportunities.¹⁵ Prominent Easthampton employers include retail businesses like Advanced Computers, Inc., GlacierWare, McCarthy Contractor and Red Rock Restaurant.¹⁶

B. Easthampton Residents and Government Leaders Clearly Consider Easthampton To Be Separate from Surrounding Communities (Factor 3)

11. Several facts demonstrate that Easthampton's residents and government leaders perceive their community as separate from surrounding communities and from Springfield in particular. Easthampton is located in the Pioneer Valley in Hampshire County, Massachusetts, while Springfield is located in Hampden County. Easthampton became a recognized entity in 1785.¹⁷ In 1809, Easthampton was chartered as a town and eventually amended its charter to become a city in 1996.¹⁸ Easthampton began and grew as a mill town around the early industrial era. Many new residents moved to town to seek employment at the mills. As a result, in the

¹² See *Parker and Port St. Joe, Florida*, 11 FCC Rcd 1095 (1996).

¹³ Unless otherwise specified, all population data provided in the Amended Petition and the accompanying exhibits is derived from Census 2000 data provided by the U.S. Census Bureau. See <http://www.census.gov>; Exhibit 2.

¹⁴ According to Census 2000 data, of Easthampton's 15,994 residents, 2,212 of Easthampton's workers age 16 years and older worked in Easthampton. See Exhibit 2.

¹⁵ See <http://www.valinet.com/~ehamp/services.html>.

¹⁶ See <http://www.easthamptonweb.com/marketplace/index.html>; see also Exhibit 2.

¹⁷ See Exhibit 3.

¹⁸ See <http://www.easthamptonguide.com/history.shtml>; see also Exhibit 3.

mid-1800s, public schools, the Easthampton Savings Bank, a local library and utility systems were established.¹⁹ Easthampton is an independent city and is continuing to grow.

12. Easthampton has many cultural attractions, including the 1,800-acre Mt. Tom State Reservation²⁰ and the Arcadia Nature Center and Wildlife Sanctuary, which is part of the Massachusetts Audubon Society.²¹ Easthampton's parks include Flaherty Park, Parsons Street Park, Pleasant Street Park, Nonotuck Park and Katherine Root Wayside Park.²² The Pascommuck Conservation Trust oversees the Nashawannuck Pond, which has been preserved as a historic area due to its early industrial use in support of Easthampton's button and elastic factories.²³ In addition, Easthampton's Historical Society, located on 7 Holyoke Street at the Rapalus House, preserves scrapbooks, photography, paintings and other pieces of Easthampton history.

C. Easthampton Has a Zip Code and a Local Telephone Book (Factor 5)

13. Easthampton is located west of Interstate 91 and off Route 10, in the heart of Hampshire County. Easthampton's zip code is 01027, and its post office is located at 191 Northampton Street.²⁴ Easthampton also has its own local yellow pages.²⁵

¹⁹ *Id.*

²⁰ See <http://www.easthamptonweb.com/mttom/index.html>; <http://www.state.ma.us/dem/parks/mtom.htm>; see also Exhibit 3.

²¹ See http://www.massaudubon.org/Nature_connections/Sanctuaries/Arcadia/index.html; see also Exhibit 3.

²² See Exhibit 3.

²³ *Id.*

²⁴ *Id.*

²⁵ See <http://easthampton-massachusetts.yellowpagesnationwide.com/> (published by YellowPages Nationwide); <http://www.usa-local-guide.com/MA/EASTHAMPTON/> (published by TransWestern Publishing); see Exhibit 3.

D. Several Local Newspapers and Other Media Serve Easthampton Residents; Businesses Need Not Rely on Springfield-based Media to Reach Easthampton Residents. (Factors 2 and 7)

14. Easthampton residents may turn to several non-Springfield media outlets for coverage of local events and public affairs. The *Daily Hampshire Gazette* is published in Northampton, with offices in Easthampton and Amherst, and serves most of Franklin and Hampshire counties. Thus, businesses seeking to direct advertising to Easthampton residents need not rely on media associated with Springfield. In addition, Easthampton residents may look to their local government for public affairs, information and schedules of upcoming events through the city's web site at www.easthamptonweb.com. Easthampton also provides an Internet search engine for local information such as local news and business information²⁶ and community access television (Channel 5).²⁷

E. Easthampton Has a Significant Number of Local Businesses and Health Facilities (Factor 6)

15. Several businesses in Easthampton demonstrate the local nature of their trade by using "Easthampton" in their name: Easthampton Electrical Service, Easthampton Dye Works, Easthampton Harley Davidson, Easthampton Machine & Tool, Inc., and others.²⁸ Several financial institutions serve Easthampton residents, including Easthampton Savings Bank, Fleet National Bank, and Florence Savings Bank.²⁹ Mass transit is available in Easthampton via the Pioneer Valley Transit Authority and the Nashawannuck Express.³⁰

²⁶ <http://www.easthamptonguide.com/index.shtml>; see also Exhibit 4.

²⁷ <http://www.easthamptonweb.com/television/index.html>; see also Exhibit 4.

²⁸ See Exhibit 5.

²⁹ *Id.*

³⁰ *Id.*

16. No hospitals are located in Easthampton, but many family practitioners, general practitioners and dentists have established medical practices in the city.³¹ In addition, several clinics are available to Easthampton residents and seniors.

F. Easthampton has its Own Local Government and Elected Officials and Provides Municipal Services to its Residents (Factors 4 and 8)

17. Easthampton is governed by a mayor and nine-person City Council. The city government is autonomous and oversees local matters such as building permits, fair housing, licensing, parks, safety and health.³² Easthampton's administration includes the following departments: Conservation Commission, Council on Aging, Cultural Council, Development and Industrial Commission, Easthampton Community Association, Fair Housing Commission, Forest Committee, Health Department, Historical Commission, Housing Authority, Industrial Development Finance Authority, Insurance Advisory Committee, Licensing Board, Local Access Board, Municipal Building Needs Committee, Nashawannuck Pond Steering Committee, Parks and Recreation Commission, Planning Department, Planning Board, Public Works Department, Retirement Board, Tax Collector, Veterans Services Department, Zoning Board of Appeal and others.³³

18. Easthampton provides its residents with many fundamental services, including public works and parks and recreation services, and Easthampton has a fire department and police department.³⁴ Easthampton Public Schools include Easthampton High School, White

³¹ *Id.*

³² The Easthampton Home Rule Charter is available on the Internet at <http://www.easthamptonweb.com/charter/index.html>.

³³ A full listing of Easthampton's City Offices appears on the city's official web site, which is located at <http://www.easthamptonweb.com/easthamptongov/index.html>. See Exhibit 6.

³⁴ *Id.*

Brook Middle School, Neil A. Pepin Elementary School, Center School, Maple Street School and Parsons Street School.³⁵

G. Additional Considerations for First Local Service

19. In light of the foregoing *Tuck* analysis, Easthampton is clearly entitled to consideration as a first local service. Easthampton's government leaders consider the city separate from its neighbors, and it has a separate historical identity. The city's elected government provides its citizens with many services without relying on Springfield or surrounding communities. Easthampton is home to a significant number of businesses, hospitals, medical facilities, transportation systems and schools. Easthampton also has its own media outlets such as the *Daily Hampshire Gazette* and local community access television Channel 5.

20. As noted *supra*, satisfaction of a majority of the *Tuck* factors is sufficient for the Commission to determine that a proposed community is entitled to a preference as a first local service. Furthermore, however, the Commission analyzes two additional considerations in considering proposals to change community of license. First, the Commission considers the extent to which the station will provide service to the entire nearby Urbanized Area. The Commission also considers the relative populations of the suburban and central city. As demonstrated in the Engineering Statement, the proposed 70 dBu contour for the Easthampton allotment will cover less than 35 percent of the Springfield Urbanized Area. With regard to relative size and proximity, Easthampton's 2000 population of 15,994 constitutes approximately 2.8 percent of the 2000 population of the Springfield Urbanized Area (573,610).

³⁵ See <http://www.easthamptonschools.org>; <http://www.easthamptonweb.com/education/index.html>. see also Exhibit 6.

21. The proposed net gain of 523,866 persons and 929.6 square kilometers receiving 60 dBu service from the allotment is in the public interest. Moreover, with a *de minimis* exception, the proposed loss area will contain at least five aural services.

III. Community of License – Malta, NY

22. The Joint Petitioners also propose to change the operation of WNYQ-FM at Malta by deleting the current allotment of channel 289A and adding an allotment of channel 289B1 at Malta. The Joint Petitioners respectfully submit that a channel upgrade in Malta is consistent with Commission precedent and will improve service to the public. The Commission's *Report & Order* granting authorization for WNYQ-FM to operate at Malta on channel 289A³⁶ acknowledged that the Petitioners had sufficiently established Malta's independence from the Saratoga Springs Urbanized Area and the public interest benefits of providing first local service to Malta.³⁷

23. WNYQ-FM would continue to provide first local service to Malta with the proposed channel upgrade because no modification of Malta's community of license is requested. Traditionally, no *Tuck* showing would be required where the proposed allotment change would not place a 70 dBu signal over 50 percent or more of the Urbanized Area.³⁸ Nevertheless, the Joint Petitioners are providing a *Tuck* showing in light of the Commission's request for a *Tuck* showing in a recent rule making proceeding where the proposed site's 70 dBu

³⁶ *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Glen Falls, Indian Lake, Malta and Queensbury, NY), Report & Order*, MB Docket No. 03-105 (rel. July 24, 2003).

³⁷ *Id.* at 2, ¶ 4.

³⁸ *See, e.g., Headland, Alabama* (adopting requirement that stations seeking to move from rural communities to communities near Urbanized Areas must provide a *Tuck* showing if the allotment would place a 70 dBu signal over 50 percent or more of the Urbanized Area).

contour would not reach 50 percent or more of an Urbanized Area.³⁹ This *Tuck* analysis demonstrates Malta's independence from the Albany Urbanized Area.⁴⁰

A. Malta Offers its Residents Significant Employment Opportunities (Factor 1); and Malta has Local Business and Health Facilities (Factors 1 and 6)

24. Malta's population is 13,005 persons, according to Census 2000.⁴¹ Malta promotes local commerce through the Malta Business and Professional Association.⁴² Malta's retail businesses include Andy's Pizza & Grill, Leprechaun Pub, The Publik House, Memory Lane Ice Cream Cafe and Subway; as well as financial services companies like Ballston Spa National Bank, KeyBank and Pioneer Savings Bank.⁴³ Malta is home to the corporate headquarters of Stewart's Shops, the North Atlantic Regional Office of the State Farm Insurance Company and Racemark International.⁴⁴

25. Several businesses in Malta and Round Lake demonstrate the local nature of their trade by using "Malta" in their name: the Malta Drive-In Theatre, the Malta Supply Wine & Liquor Shop of Malta, Malta Asphalt, and others.⁴⁵ Family practitioners, general practitioners and dentists have established practices in Malta, and several clinics are available to Malta residents and seniors.

³⁹ See *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Chillicothe and Ashville, Ohio), Report & Order*, MB Docket No. 99-322 (re. June 2, 2003).

⁴⁰ In the *Malta Proceeding*, Vox New York submitted a *Tuck* showing that Malta was a separate community from Saratoga Springs, New York. The FCC agreed and ruled that Malta was a separate community TV on Saratoga Springs. Thus, there is a no need in this instance to provide a new *Tuck* showing for Malta and Saratoga Springs.

⁴¹ See Exhibit 7.

⁴² See <http://www.maltambpa.org>; see also Exhibit 7.

⁴³ See, e.g., Exhibit 7; see also Ballston Spa & Malta Telephone Directory 2001-2002, published by Easy Book Publishing, Inc.

⁴⁴ See <http://www.malta-town.org>; see also Exhibit 7.

⁴⁵ See Exhibit 9.

B. Malta Residents and Government Leaders Clearly Consider Malta To Be Separate from Surrounding Communities (Factor 3)

26. Several facts demonstrate that Malta's residents and government leaders perceive their community as separate from surrounding communities. The town's website recounts Malta's history and development, describing how Malta was settled in the late 1700s in the Southern portion of Saratoga county and grew as a community located near a malt brewery.⁴⁶ Malta was officially established in 1802 as a mill town and celebrated its bicentennial in 2002.⁴⁷ Historic places in Malta include the Parade Grounds, which were used as a Revolutionary War training site, and Round Lake auditorium. In addition, Malta is home to several community parks, including Collamer Park, Shenantaha Creek Park and Malta Community Park.⁴⁸ All of these factors are evidence of the community's perception of Malta's independence.

C. Malta Has a Zip Code and a Local Telephone Book (Factor 5)

27. Malta is located on Interstate 87 in the heart of Saratoga County, New York. Its post office is located at 12 Hempill Place, and the town also receives mail service from nearby Ballston Spa. Both communities share zip code 12020, and Malta, Ballston Spa and other smaller communities share a local telephone book and yellow pages.

D. Several Local Newspapers and Other Media Serve Malta Residents; Businesses Need Not Rely on Albany-based Media to Reach Malta Residents (Factors 2 and 7)

28. Malta constitutes a separate advertising market from Albany because Malta residents may turn to several media outlets outside of Albany for coverage of local events and public affairs. These outlets include the *Schenectady Gazette* (published in Schenectady, New York) and the *Ballston Journal* (published in Ballston Spa, New York). In addition, Malta

⁴⁶ See <http://www.malta-town.org/history.htm>; see also Exhibit 7.

⁴⁷ *Id.*

⁴⁸ See <http://www.malta-town.org/leisure.htm>; see also Exhibit 7.

residents may look to their local government for public affairs information on Malta's extensive web site at www.malta-town.org, which includes an online newsletter containing news of interest to local residents. Businesses seeking to direct advertising to Malta residents need not rely on media associated with Albany.

E. Malta Has A Local Government and Elected Officials (Factor 4)

29. Malta's day-to-day affairs are overseen by an elected five-person town board, which comprises a town supervisor, a deputy supervisor and three members. The town government is autonomous and has authority to issue permits, assess property and conduct zoning functions.⁴⁹ Malta's full-time workers include a town clerk, comptroller, town assessor, town historian, town attorney, planning attorney, animal control officer and webmaster.⁵⁰ Malta has a Zoning Board of Appeals and a Zoning Review Commission, a Building Department and a Planning Board, and two town justices serve the Malta Town Court.⁵¹ Malta provides its residents with many fundamental services, including public works and parks and recreation services. Malta's residents are served by a volunteer fire department and the New York State police and the Saratoga County Sheriff's Department. Malta purchases power and natural gas from Niagara Mohawk. Malta has its own primary, elementary and high schools; Malta residents send their children to public schools within the Ballston Spa Central School District.⁵²

F. Additional Considerations for First Local Service

30. Malta satisfies the majority of the *Tuck* criteria, and thus it is an independent community from the Albany Urbanized Area. The proposed net gain of 247,344 persons

⁴⁹ Malta's Town Code is available on the Internet at <http://www.malta-town.org/maltacode.htm>

⁵⁰ See "The Malta Town Family" at <http://www.malta-town.org/family.htm>.

⁵¹ *Id.*

⁵² See Exhibit 7.

receiving 60 dBu service from the allotment is in the public interest. The Commission’s analysis of two additional *Huntington* considerations further supports this conclusion. With regard to relative size and proximity, Malta’s 2000 population of 13,005 constitutes approximately 2.4 percent of the 2000 population of the Albany Urbanized Area (558,947). Also, the Mohawk River separates Malta from Albany, and Albany is located approximately 20 miles south of Malta, respectively. In all, these factors support Malta’s ongoing entitlement to first local service.

CONCLUSION

The Amended Petition proposes the following changes to the FM Table of Allotments:

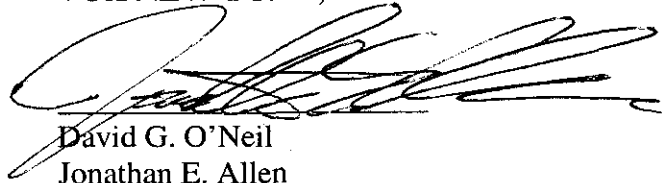
	Current	Proposed
Pittsfield, MA	240A, 269A, 288A	240A, 269A
Easthampton, MA	---	288A
Malta, NY	289A	289B1

The instant proposal serves the public interest by enabling the Joint Petitioners to improve two stations, WBEC-FM and WNYQ-FM, by enabling the introduction of first local service to Easthampton and by effecting significant coverage increases. Easthampton would receive its first local radio service, and 523,866 more people would receive 60 dBu service. Also, station WNYQ-FM would increase service to 247,344 more persons and would facilitate first local service to Malta. The Joint Petitioners are confident that this proposal can be implemented with a minimal impact on Commission resources. The Joint Petitioners hereby state that in the event the Commission makes the proposed changes to the FM Table of Allotments, the Joint Petitioners will timely file the necessary applications for construction permit for the new stations and will construct the new facilities in a timely manner. For these reasons, approval of this proposal is respectfully requested.

WHEREFORE, FOR THE FOREGOING REASONS, Great Northern Radio, LLC and Vox New York, LLC respectfully request that the Commission issue a Notice of Proposed Rule Making in connection with the proposal outlined in this Amendment to Petition for Rule Making and modify Section 73.202(b) accordingly.

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